OJAI OIL CO.

IBLA 79-450 Decided July 21, 1980

Appeal from a decision of the California State Office, Bureau of Land Management, rejecting high bid for competitive oil and gas lease CA 4970.

Affirmed.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

   The Secretary of the Interior has the discretionary authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate.

2. Oil and Gas Leases: Generally -- Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

   The Geological Survey is the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on its reasoned analysis in evaluating a lease bid.

3. Oil and Gas Leases: Generally -- Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

   Where, following remand because the record fails to disclose a rational basis for rejection of the high bid at a competitive oil and gas sale, the Geological Survey supplies the factual basis and a reasoned analysis supporting the conclusion that the bid is inadequate, BLM may so conclude and properly reject the bid.

APPEARANCES: Theodore Off, President, Ojal Oil Company, for the appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Ojai Oil Company has appealed from a decision of the California State Office, Bureau of Land Management (BLM), dated May 3, 1979, rejecting its high bid for competitive oil and gas lease, CA 4970. The BLM decision followed this Board's remand in Ojai Oil Co., 39 IBLA 173 (1979), directing BLM to compile a more complete record giving due consideration to appellant's assertions and to readjudicate the bid. Appellant had appealed to the Board following an earlier BLM rejection of its bid as inadequate based on the recommendation of the Geological Survey (Survey). Survey had evaluated the parcel at $247 per acre. Appellant's bid was $132.75 per acre.

Following remand, BLM requested that Survey provide additional supportive data and documentation to further substantiate the inadequacy of the bid. In response, Survey submitted a memorandum containing an expanded discussion of its evaluation of the parcel and addressing many of the matters raised by appellant. Specifically, Survey noted that the parcel has never been drilled and implied, therefore, that any characterization of the nature and production potential of the parcel, including its own, is subject to proof by actual drilling. The Survey analysis of the parcel included the following:

> Parcel No. 2, West Mountain Field, was never tested by the drill. Also, as shown in this report, no well drilled in its vicinity could be considered as a dry hole. All the wells drilled all around the parcel were productive though they might differ sharply in their rate of production due to rapid and erratic facies changes in the reservoir rock, as is well illustrated on OJAI Oil Co. "Exhibit A".
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> To assume that the parcel "is in a saddle defined both structurally and by permeability variations" is a mere guess. There is not enough control data to back up such a definition, as no wells were drilled yet on the parcel and only few in its close vicinity. In fact, both the Summary of Operations, California Oil Fields, D.O.G. Vol 52, No. 1 and the California Oil and Gas Division, Volumne II, 1974, show that the parcel is located on a horst block on the southeast flank of the West Mountain field, as shown on the attached copies of maps. Again this interpretation will also have to be proved: the only way to find out is by the drill.

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> Production in both the West Mountain and South Mountain Oil Fields is obtained entirely from the "Sespe Formation" which is continental and ranges in age from late Eocene to early Miocene. The total thickness of this formation in this area is about 7000 feet. The producing interval consists of some 1500 feet of interbedded conglomerate, sandstone and mudstone. The relative percentage of each may change drastically from one well to another and the production rate is also very much affected by this rapid facies change. The change in facies in this area does not follow a certain pattern or a regular trend, as is clearly illustrated by OJAI Oil Co. "Exhibit A."

Survey also described the systems used to evaluate the parcel as a whole, and the methods used to estimate probable recoverable reserves on the parcel. The systems evaluations resulted in bonus values higher than Survey's final $247 per acre recommendation.

The Survey memorandum reflects due consideration of appellant's earlier assertions on appeal. As suggested by the previously excerpted portions of Survey's memorandum, Survey is not convinced that appellant's "permeability saddle" characterization of the parcel is correct. In response to appellant's assertion that the wells closer to the parcel at issue are less economically productive, Survey specifically examined the surrounding wells focusing particularly on the data on appellant's Exhibit A to the original Statement of Reasons. Exhibit A is a map showing the surrounding wells with indications as to their productivity. Survey concluded that none of the wells were dry holes, and productivity varied sufficiently such that no definite pattern could be ascertained. As part of this examination, Survey found that the newly drilled well, located 1,200 feet northwest of the parcel, which appellant claimed produced mostly water, was in fact producing oil and could be characterized as a northerly extension of the West Mountain field. 1/

Survey also stated that appellant's production graph showing a continuous sharp decline in production in the area misrepresents the general production behavior of the West Mountain field. Survey submitted its own graph for comparison.

1/ As concerns this well, referred to as the G. J. Darneille well No. 1, West Mountain Field, appellant notes that as of July 2, 1979, no oil had been sold and that present production was obtaining 8-10 barrels of oil per day and 100 barrels of water. With a cost of $1.30/barrel for water disposal, appellant contends that the well is obviously uneconomical.

In response to appellant's argument that the bids received at the competitive bid sale for the parcel reflected an accurate measure of the fair market value of the parcel, Survey notes that bids from just the large operators varied in amount from $26 to $132.75 and that such bids reflect "many factors other than fair market value."

Finally, Survey disagreed with appellant's suggestion that the real value of the parcel to the United States is the income to be received from discovery of oil and that rejection of appellant's bid would result in delay, causing a loss of income greater than that to be derived from the higher bonus. Survey states that the bonus must be viewed separately from royalty or income because if the well ultimately failed or the leases were abandoned without any drilling having been done, "as is often the case, then the bonus would represent the only benefit" to the United States.

In its statement of reasons for the present appeal, appellant contends that Survey did not give due consideration to appellant's previous assertions nor did it compile a more complete record. Appellant also reiterates that Survey has erred in its facts and conclusions. Appellant again puts forth its argument that the parcel should be viewed as a "permeability saddle" characterized by decreasing productivity for wells closer to the parcels at issue and contests Survey's characterization. It notes that Survey ignored certain of its assertions 2/ and that regardless of the completion report on the nearby newly drilled well, that well was idle as of July 1979.

Appellant also contends that

> [a]n economic evaluation, whether computer derived or otherwise, only has merit if the underlying assumptions are valid * * *. Assigning a 50% risk factor to a parcel of land with uneconomic wells on 3 sides appears unrealistic to us without other evidence. Likewise, averaging per

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2/ Appellant points out that Survey did not address its listing of uneconomic wells, the fact the bottom holes of some good wells noted by Survey were further from the parcel than their surface locations, and its assertion that initial production figures originally cited by Survey fail to take into account the return of completion fluid used to prime the wells. Since Survey has not addressed these assertions, we have assumed for the purposes of our review that Survey does not dispute these claims. We do not find that such assumptions detract from Survey's analysis.

Survey's memorandum does dispute appellant's characterization of other wells identified on Exhibit A as dry holes. We feel that Survey's memorandum reflects sufficient examination of appellant's data even though it did not address every point.

well field production in determining possible well production on the subject parcel does not appear reasonable when per well production appears to decline towards the subject parcel as discussed above.

Finally, appellant argues that if the data used for Survey's production graph is plotted on appellant's original graph, the curve is "almost identical" to appellant's original decline curve. This is undoubtedly true. We wish to note, however, that on close examination the two graphs reflect the same trend. The picture is more dramatic on appellant's graph only because of the different axis used for the graph.

[1] Under 30 U.S.C. § 226(b) (1976), the Secretary of the Interior has the discretionary authority to reject a high bid at a competitive oil and gas lease sale as inadequate. The Department's regulations at 43 CFR 3120.31 also recognize the right to reject an inadequate bonus. This Board has consistently upheld the Secretary's authority to reject bids as inadequate provided that the rejection has a reasonable basis in fact which is reflected in the case record. Southern Union Exploration Co., 41 IBLA 81 (1979), Frances J. Richmond, 29 IBLA 137 (1977), Arkla Exploration Co., 25 IBLA 220 (1976).

[2] Survey is the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on Survey's reasoned analysis. Gerald S. Ostrowski, 34 IBLA 254 (1978), Coquina Oil Corp., 29 IBLA 310, 311 (1977). We have more specifically held that BLM may rely on Survey's geologic assessment of oil and gas production in absence of a clear and definite showing of error. Amoco Production Co., 41 IBLA 348 (1979), Corrine Grace, 30 IBLA 296 (1977). When BLM does rely on Survey's analysis, it must ensure that a reasonable explanation is provided for the record to support its decision. Southern Union Exploration, Co., supra.

[3] When we previously reviewed this case, we were unable to make an independent determination whether there was a reasonable basis in fact to support the decision because the Survey recommendation provided little supporting documentation and no explanation of its method of evaluation. The Survey memorandum submitted following remand contains sufficient information for us to now conclude that its recommendation has a reasonable basis in fact. In so concluding we recognize that Survey's expert analysis differs from that of appellant's. At the risk of over simplification, we would note the difference between Survey's analysis and that of appellant's is a difference in opinion. There is apparently no data as to actual oil and gas deposits on the parcel. Appellant finds a "permeability saddle" and a pattern of production indicating that the wells surrounding the parcel are less economic the closer one moves toward the parcel. Appellant feels that

this conclusion militates against the higher bonus. Survey's analysis indicates that the parcel is "on a horst block on the southeast flank of the West Mountain field" and finds no certain pattern with respect to productivity of the surrounding wells. We hold, however, that the BLM decision is reasonably supported by the record. The burden is not upon Survey to prove the lease is worth a bonus of $247 per acre. Rather, appellant has the difficult burden of showing that its bid represented fair market value. See Union Oil Co., 38 IBLA 373 (1978). We hold that appellant has not been able to sustain this burden.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

I concur:

Joseph W. Goss
Administrative Judge

ADMINISTRATIVE JUDGE FISHMAN CONCURRING IN THE RESULT:

Appellant bid, for parcel 2, $132.75 per acre, and Geological Survey's evaluation was $247 per acre.

Despite the mumbo jumbo supplied by the Geological Survey, there is nothing therein to tie it to a value per acre of $247.00, or to any other figure.

In essence, the Board has before it two guesses as to value: one by Geological Survey, the other by appellant. To state, as does the main opinion, that its affirmance is based upon a factual basis and a reasoned analysis, both supplied by Survey, is to indulge in fantasy.

What is particularly mind boggling is the apparent view of the Geological Survey that benefit to the United States is measured solely in dollars -- the exploration, development and production of direly needed energy are ignored. This is the philosophy enunciated by the former Bureau of the Budget and is disconsonant with reality.

But despite that aberration from logic, it cannot be said that Survey's guess as to fair market value is clearly erroneous and that appellant's guess is sound.

Moreover, if the tract is as poor as appellant represents it to be, it is highly anomalous for appellant to strive so mightily to make a donation to the United States of $132.75 per acre.

Frederick Fishman
Administrative Judge